

# Cole Schotz P.C.

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January 21, 2022

## VIA ELECTRONIC FILING

Hon. Judge Rodney Gilstrap  
United States District Court  
Eastern District of Texas  
Sam B. Hall, Jr. Federal Building  
100 East Houston Street  
Marshall, TX 75670

Re: *Stairway Legacy Assets, L.P. v. Eidos Display, LLC, et al.*  
**Index Nos. 650415/2020 & 651497/2017;**  
**Eidos Display, LLC and Eidos III, LLC v. Chi Mei Innolux Corporation et al.**  
**Civil Action No. 6:11-cv-00201(JRG)(JDL) - (the “Patent Litigation”)**

Dear Judge Gilstrap,

This firm represents Stairway Legacy Assets, L.P. (“Stairway”), which, together with Ironshore Specialty Insurance Company (“Ironshore”), seek, in part, to intervene and to seek a declaration that the secured priority interest held by Stairway and Ironshore extends to include the full amount of the settlement proceeds due from Innolux<sup>1</sup> to Eidos<sup>2</sup> as part of the confidential settlement agreement reached between them.

The purpose of this correspondence is to bring to the Court’s attention our concern that Eidos and Innolux appear to have failed to comply with this Court’s Order entered following the April 9, 2020 hearing on the *Opposed Sealed Motion to Enforce Settlement Agreement and to Dismiss the Actions Upon Innolux’s Deposit of Balance of Settlement Funds* [Dkt. No. 955] (the “Motion to Enforce Settlement Agreement”).

Specifically, based upon information we have recently received, we do not believe the parties have complied with your Order dated April 15, 2020 granting the Motion to Enforce Settlement Agreement [Dkt. No. 979 - SEALED] (the “Enforcement Order”) despite the passage of approximately 22 months since its entry. This delay has caused a significant erosion of

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<sup>1</sup> “Innolux” refers collectively herein to defendants Chi Mei Innolux Corporation and Chi Mei Optoelectronics USA, Inc.

<sup>2</sup> “Eidos” refers collectively herein to plaintiff Eidos Display LLC and plaintiff Eidos III, LLC.

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Stairway's security given the amount of additional interest that has accrued in favor of Ironshore as the primary lienholder in relation to the finite amount of settlement proceeds at issue.

Recently, we asked Matt Martin, as counsel for Eidos, to provide a status update on the proceedings before the Taiwan Tax Authority, and, on December 21, 2021, he responded in such a way as to suggest that the waiver has been refused and the tax authority was insisting that the full 20% of settlement proceeds be withheld and tendered as a predicate to applying for a refund. Mr. Martin advised that the application for refund was also "to seek a determination of the amount of legal fees that would be deductible." A transcript of Mr. Martin's voice-mail message is available upon request for the Court to review *in camera*.

On January 3, 2022, we wrote Eidos and Innolux expressing our concerns in this regard and seeking information relevant to these concerns from each of them. At the end of a lengthy email chain, Mr. Martin advised us on January 18, 2022 that "[n]either Eidos nor Innolux has paid [the withholding] to the Taiwanese tax authorities; Innolux has paid no funds to Eidos or its counsel; and to Eidos' knowledge, Innolux has not deposited the balance of the...settlement into the registry of the Court." A copy of our January 3, 2022 correspondence and the referenced email chain are available upon request for the Court to review *in camera*.

It appears that, despite the passage of almost 22 months since this Court's entry of the Enforcement Order, the delay in resolving the tax issue lies largely in Denton's efforts to secure some type of fee allocation from the Taiwan Tax Authority. Although Eidos made its initial filing in Taiwan on August 20, 2020, and although Mr. Martin has recently reported that the Director continues to insist that the full 20% of the settlement be withheld and paid to Taiwan, and that Eidos then should file an application for a refund, Mr. Martin has recently confirmed that no such payment has been made and no such refund application has yet been submitted.

In light of the continuing and serious deterioration of Stairway's security by virtue of this delay, and the admitted failure of Eidos or Innolux to tender the appropriate withholding amount and to seek a refund as the Director of the Taiwan Tax Authority has previously insisted be done, we are bringing this situation to the Court's attention in the hope that the Eidos and Innolux settlement may be finally consummated and our request to intervene may then be deemed ripe for review by this Court.

We greatly appreciate the Court's time and attention in this regard. Thank you.

Respectfully submitted,  
**COLE SCHOTZ P.C.**

/s/ James W. Walker  
James W. Walker

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cc: (Via electronic mail and ECF)

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